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ABSTRACT

This paper discusses the adoption of mandatory and voluntary uniform policies in school systems across the United States. Mandatory policies have been adopted by 6 of the nations largest districts--Birmingham, Chicago, Dayton, Long Beach, San Antonio, and Oakland. Approximately 35 other districts have voluntary policies, and countless others are considering implementation of some type of uniform policy. The trend toward uniforms actually began in the late 1980s, primarily in inner-city location. The paper discusses the factors that have encouraged the adoption of a school uniform policy as well as what opponents of such a policy have to say. Legal challenges to uniform policy have arisen as school districts have adopted mandatory uniform codes. (Contains 25 references.) (DFR)

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Legal Issues and the Trend Towards School Uniforms

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Many school systems across the United States are adopting mandatory and voluntary uniform policies. Mandatory policies have been adopted by six of the nations largest districts - Birmingham, Ala.; Chicago, Ill.; Dayton, Ohio; Long Beach, Calif.; San Antonio, Texas, and Oakland, Calif.. Approximately thirty five other districts have voluntary policies, and countless others are considering implementation of some type of uniform policy. The trend towards uniforms actually began in the late 1980's, primarily in inner city locations. In the Fall of 1987, school systems in Baltimore and Washington, D.C. experimented with school uniforms. By 1989, 74% of the schools in Baltimore had implemented uniform policies. Also, there were 32 schools in Washington, 44 in Miami, and 30 in Detroit that had adopted uniforms. According to the U.S. Department of Education, by 1996 there were school districts in ten states that had some form of uniform guidelines. These schools were primarily elementary and middle or junior high schools (Stanley, 1996).

The adoption of uniforms has been encouraged by several factors. Many systems believe that uniforms will reduce discipline referrals, while improving attendance, achievement, self esteem, and school climate. A survey of 5,500 principals attending the 1996 Secondary School Principals' Annual Conference revealed that 70 percent of middle and secondary school principals in attendance favored uniforms, believing that requiring students to wear uniforms to school would reduce violent incidents and discipline problems. Support for uniforms has also come from governmental sources. In a 1996 memorandum to Secretary of Education Richard W. Riley, President Clinton wrote, "If school uniforms can help deter school violence, promote discipline, and foster a better learning environment, then we should offer our strong support to the schools and

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parents that try them" (Portner, 1996). The Department of Education was directed by the President to distribute manuals on school uniform adoption to 15,000 school districts nationwide (Portner,1996). The manual's publication occurred a few weeks after President Clinton's 1996 State of the Union Address, in which he promoted the use of uniforms in public schools.

Benefits historically cited by proponents of school uniforms include improved discipline, increased respect for teachers, increased attendance at school, a decrease in distractions that keep students from concentrating on lessons, improved academic performance, an increase in student self-esteem and confidence, decreased overall clothing costs, promotion of group spirit, a decrease in social stratification and fashion statements (which are indicated by the wearing of expensive clothing by those who can afford them compared to those who cannot), improved classroom behavior, decreased school crime and violence, and strangers on campus are easily recognized (Caruso, 1996; Stanley, 1996).

Opponents of uniform requirements allege that uniforms result in unnecessary routinization, violations of student's First Amendment rights, authoritarian regimentation, extraordinary expenditures on special clothing, an environmental tone that is harmful to education and learning, and a cosmetic solution to deeper societal problems (ACLU, 1997; Editorial Projects in Education, 1996). Some critics agree with Mancini (1997) that the benefits of uniforms are primarily perceptual rather than real, with uniforms producing a "halo effect in which everybody treats everybody better" (p19). Nadine Strossen, president of the American Civil Liberties Union has stated "Throughout society, there is popular support for any measure that sounds like it supports greater law and order, even if there's no evidence that it actually has any effect " (ACLU, 1997).

Legal challenges to uniform policies have arisen as school districts have adopted mandatory uniform codes. Many of these challenges have been based on the belief that the way students dress

is a form of expression. An article dealing with uniforms that appeared in the New York Times quoted Norman Seigel, the Executive Director of the ACLU, as saying "A student's choice of dress is an expressive activity.....It should be no concern to the school." Seigel also indicated his eagerness to challenge the uniform policy if a student came forward to complain. The legal challenges to mandatory uniforms that are based on First Amendment freedoms of expression, cite the often quoted court assertion that students do not "shed their constitutional rights to freedom of speech or expression at the school house gate" (Tinker v. Doe, (1969). The court, however, did qualify this statement by saying " .....the Court has repeatedly emphasized the need for affirming the comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools."

A recent lawsuit challenging the mandatory uniform policy of the Long Beach California School District was dropped after the district agreed to improve the manner in which the program was being implemented. The suit had been filed on behalf of 26 low income families by the American Civil Liberties Union of Southern California. The Long Beach district was the nation's first system to establish a district wide mandatory uniform policy. The ACLU argued that the mandatory program placed a financial burden on poor parents and that parents were not adequately informed about their opt out rights (Portner, 1996). A 1998 suit filed in South Carolina by the American Civil Liberties Union stated that "a mandatory public school uniform policy violates the students' First Amendment rights to free speech and religious freedom, their Fourth and Fourteenth Amendment due process rights to be secure in their persons and free from arbitrary and capricious government action, and their state Constitutional right to a free public education." (ACLU 1998). School uniforms have not been legally tested at the Supreme Court level, but there have been

numerous court decisions involving student dress codes, including Bannister v. Paradis (1970), Richards v. Thurston (1970), Westley v. Rossi, Fowler v. Williamson (1979). If previous court decisions dealing with student dress have any bearing on the legality of mandatory uniform policies these cases might provide strong arguments, pro and con.

The Bannister decision, while invalidating the prohibition against wearing blue jeans to school, ruled that the wearing of blue jeans in no way constituted a right of expression. "The First Amendment, therefore does not apply and is not an issue." (LaMorte, 1996 p.145). The court also pointed out that there were not any disturbances caused by the wearing of blue jeans nor were there any dangers to the health or safety of other pupils. Referring to the Richards v. Thurston decision, which declared: " No right is held more sacred, or is more carefully guarded, by the common law than the right of every individual to the possession and control of his own person, free from all restraint or interference from others, unless by clear and unquestionable authority of law", the District Court determined that student dress involved personal liberty. These court opinions on the surface would appear to undermine the legality of mandatory uniform policies. Uniform policies differ from dress codes in that they state what must be worn, rather than stating what should not be worn. In this respect, uniform policies may be viewed as a greater violation of student's rights. However, uniform policies that are adopted to minimize gang related or inner city violence might be viewed differently since there are the issues of health, safety, and potential disturbance of the learning environment. School policies that prohibit wearing clothing or symbols linked to gangs have traditionally been upheld by the courts (Jeglin v. San Jacinto Unified School District, (1993) and Olesen v. Board of Education, (1987).

The Bannister opinion also cited the ruling of Westley v. Rossi, "The standards of appearance and dress of last year are not those of today nor will they be those of tomorrow. Regulation of conduct by school authorities must bear a reasonable basis to the ordinary conduct of the school curriculum or to carrying out the responsibility of the school." (305 F. Supp 714). Using this opinion as a guide, one could reasonably conclude that a mandatory uniform policy could outweigh the personal liberty issue of dress if the policy had a reasonable basis in carrying out the responsibility of the school. As uniform policies have been implemented, measurable effects on school climate are being documented. In Norfolk, Virginia at William H. Ruffner Middle School, dramatic results were noted after only one semester. " The most notable benefit of the mandatory uniform policy has been the unbelievable reduction in discipline infractions. The number of students missing school due to suspensions for disruption, insubordination, disrespect, and fighting was reduced by more than 30% from the previous year" (Hoffler-Riddick and Lassiter, 1996, p.27). The results of a longitudinal study of uniform adoption in the Long Beach California District, revealed a decline of 51% in the number of physical fights between students and 32 fewer suspensions(Stanley, 1996; Portner, 1996). Similar reductions in discipline problems have accompanied the implementation of uniform policies in many other schools (Loesch, 1995; Caruso,1996; Mancini, 1997).

The first state ruling on mandatory uniform policies was issued by an Arizona state judge. In his decision, the judge stated that although mandatory uniform regulations did infringe upon students' freedom of expression, schools are not public forums and the courts need only to determine if the school's grounds for requiring uniforms are reasonable. The First Amendment balancing test was also utilized, determining that the overall interests of the student body outweighed the defendants' freedom of expression rights. This ruling was derived in part from the Hazelwood

School District v. Kulmeier, (1988), which held that "public schools do not possess all of the attributes of streets, parks, and other traditional public forums" and therefore restrictions may be placed on free speech (Paliokas,1996, pp 33).

In conclusion, disagreements concerning school dress codes and uniform policies will no doubt increase as more systems adopt and enforce their policies. As litigation takes place and court opinions are rendered, school systems' policies as well as the rights of students will continue to be impacted with regard to the use of uniforms.

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